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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:
Robert G. Arsenault et al.

U.S. Serial No: 09/534,708

Filed: March 24, 2000

Title: Method and Apparatus for Conditionally Processing, Storing, and Displaying Digital Channel Content in a Television Reception System

Art Unit: 2611

Examiner: Joseph G. Ustaris

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APPELLANT'S REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

Dear Sir:

In response to the Examiner's Answer mailed November 15, 2007, in connection with the above-identified patent application, Applicants respectfully submit the instant Reply Brief in accordance with 37 C.F.R. § 41.41.

STATUS OF CLAIMS

Claims 28-30 and 32-47 are rejected under 35 U.S.C. § 103(a) over U.S. Patent Application No. 2001/0056577 (Gordon) in view of U.S. Patent No. 5,381,477 (Beyers II), and these rejections are being appealed.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 28-30 and 32-47 are patentable under 35 U.S.C. § 103(a) over Gordon in view of Beyers II.

ARGUMENT

Claims 28-30 and 32-47 are Patentable Under 35 U.S.C. § 103(a)

Over Gordon in View of Beyers II

The applicants have carefully considered the examiner's comments in the Examiner's Answer mailed November 15, 2007. However, the applicants maintain that the pending claims are patentable over the cited art.

Claim 28 recites a method comprising, *inter alia*, adding conditional logic to channel objects. The references cited in the Examiner's Answer fail to describe or suggest adding conditional logic to channel objects.

The applicants' specification describes a conditional object as one that includes an embedded object and a rule or logic. Further, the specification describes that, when evaluated, a rule tests for various scenarios and takes appropriate action. (*Summary of the Invention*: Page 4, lines 13-15). For example, a rule may evaluate one or more conditions and reach a result of *true* or *false*. (*Specification*: Page 19, lines 16-23). Therefore, it is clear that conditional logic including a rule that must be evaluated by a receiver, as recited in claim 28, must include a test that evaluates whether a condition exists before a command is executed. In other words, a rule cannot simply be an instruction to unconditionally execute a command.

Such a definition of conditional logic and rules is consistent with common usage of these terms. For example, Merriam Webster Dictionary defines *conditional* as:

> 1: subject to, implying, or dependent upon a condition <a conditional promise>
> 2: expressing, containing, or implying a supposition <the conditional clause if he speaks>
> 3 a: true only for certain values of the variables or symbols involved <conditional equations> b: stating the case when one or more random variables are fixed or one or more events are known <conditional frequency distribution>
> 4 a: conditioned 2 <conditional reflex> <conditional response> b: established by conditioning as the stimulus eliciting a conditional response.

(emphasis added). Likewise, Wikipedia, in an article about conditional programming, states:

> In computer science, conditional statements, conditional expressions and conditional constructs are features of a programming language which perform different computations or actions depending on whether a programmer-specified condition evaluates to true or false (see boolean datatype). Apart from the case of branch predication, this is always achieved by selectively altering the control flow based on some condition.

(Wikipedia, http://en.wikipedia.org/wiki/Conditional_%28programming%29) (emphasis added).

As an example, in the context of digital hardware, an AND gate performs conditional logic. In particular, an AND gate receives inputs that establish conditions. For example, an input condition may be a true representation (e.g., a digital high) or a false representation (e.g., a digital low). The AND gate includes conditional logic that evaluates whether the condition exists that both input conditions are true. In other words, if the condition exists that both inputs are true, then the AND gate outputs a true value (e.g., a digital high). Conversely, if the condition exists that at least one input is not true, then the AND gate outputs a false value (e.g., a digital low). Clearly, the input conditions are merely inputs to the conditional logic and are not the conditional logic themselves.

Therefore, it is clear that conditional logic is not merely the definition of the state of a condition. Rather, conditional logic is the test that evaluates whether a condition exists, is true or false, etc.

In the Examiner's Answer, the examiner contends that a transaction code as described in Beyers et al. (US 5,381,477) ("Beyers") is conditional logic. (Examiner's Answer: Page 12, lines 5-6). However, Beyers does not describe or suggest that a transaction code includes any type of rule that must be evaluated by a receiver. In fact, Beyers clearly describes the transaction codes/operands as simply commands or instructions. (Beyers: col. 9, lines 30-31). While Beyers describes that the transaction message may include an address of a

subscriber terminal, Beyers does not describe or suggest that the transaction code includes any test or rule for evaluating whether the address matches a subscriber terminal. (see, for example, Beyers: FIGS. 6B, 8C, 9B, 9C, 10A, 10B that show addresses but lack any conditional logic or rules). Rather, the applicants presume that instructions for such matching must be pre-stored at a subscriber terminal. Therefore, while transaction codes that include an address of a subscriber terminal may be similar to the conditions input to an AND gate, the transaction codes clearly do not include conditional logic.

The examiner alleges that a subscriber terminal of Beyers judges whether or not an address of a transaction code identifies the subscriber terminal. Even if such judgment can be considered conditional logic, a point that the applicants do not concede, Beyers does not describe or suggest that the logic is included in a channel object. Rather, as previously described, transaction codes described in Beyers merely include an address. Therefore, for completeness, the applicants respectfully submit that Beyers does not describe or suggest adding conditional logic to channel objects.

Further, the applicants submit that Gordon (US. Pub. No. 2001/0056577), a reference also cited by the examiner in the Examiner's Answer, does not describe or suggest adding conditional logic to channel objects.[1] Portions of Gordon cited by the examiner state:

> [0070] The RF modulated data is coupled to a forward channel within e.g., a cable television system or other information distribution system. The information distribution system is denoted as data pipe DP and is coupled to a plurality of neighborhood information distribution systems 490-1 through 490-3. Each of the neighborhood distribution systems 490-1 through 490-3 is coupled to a plurality of set top terminals 200. It should be noted that while each of the set top terminals is denoted by the same reference designator (i.e., 200), that each of these terminals will be associated with a unique terminal

[1] The applicants note that the Final Office action dated February 24, 2006 stated "Gordon does not specifically discloses that one or more rule could or should be included in a channel object, i.e., bitmaps." However, this position was reversed in later Office actions without reasons for the reversal.

> identification (TID) and other subscriber specific information. The set top terminal 200 described above with respect to FIG 2 may be used within the system of FIG. 4. Furthermore, each set top terminal is associated with a display device (i.e., a television or other display device) and an audio presentation unit (i.e., speakers and associated speaker drivers). The display device and speakers are denoted by the DISP, L and R designators.
>
> [0088] This system can further be extended to implement conditional access by arranging bitmap information in different data blocks according to types of access allowed. Processing of this information would be done at the head end where a series of descriptors are developed for each on-screen area capable of receiving emphasis. Part of the descriptors contain entitlement "locks" mapping access entitlement to on-screen areas capable of displaying emphasis. At the set top box, a series of "keys" exist that map to those channels the user is entitled to view. If one of the keys "fits" any of the locks, the bitmap set linked to the key may receive on-screen emphasis at the set top box.

(emphasis added). Based on these portions of Gordon, the Examiner's Answer states "'conditional logic' reads on Gordon's arranging bitmap information in different data blocks descriptors contain entitlement "locks" to corresponding channel object." (Examiner's Answer: Page 3, lines 16-19). However, like the addresses of Beyers, it is clear that any rule or test that may exist in Gordon is in the set top box that receives data or bitmap information. More particularly, Gordon does not describe or suggest that the rules or tests are added to or included in channel objects.

For example, the bitmap information of Gordon is arranged in different data blocks, but Gordon does not describe or suggest that the bitmap information includes logic as to how the bitmap information or rules are to be interpreted by a receiver. Rather, the bitmap information is similar to the conditions or parameters input to an AND gate and not the conditional logic evaluation of the AND gate. The set top box of Gordon must already store instructions that specify how the set top box is to determine if the set top box is entitled to view a particular bitmap. The arrangement of the bitmap information is, at best, a condition to be evaluated by some conditional logic.

Likewise, the unique terminal identifications of Gordon, like the addresses of Beyers, do not include rules as to how a unique terminal identification in a channel definition is to be interpreted. Therefore, the unique terminal identifications are not conditional logic.

Therefore, Gordon fails to describe or suggest adding conditional logic to channel objects. Accordingly, because all of the references cited in the Examiner's Answer fail to describe or suggest adding conditional logic to channel objects, claim 28 and all claims depending therefrom are patentable over the cited art.

Claim 36 recites a method wherein each channel object with more than one channel definition includes conditional logic having one or more rules including conditions that must be evaluated to identify an appropriate channel definition based on receiver characteristics data, the method comprising, *inter alia*, responding to the tuning request by evaluating the conditions in the one or more rules of the channel object associated with the selected television channel and identifying a first channel definition or a second channel definition for that television channel based on receiver characteristics data representing a characteristic of the receiver. As described in conjunction with claim 28, neither of Gordon or Beyers describes or suggests adding conditional logic to channel objects. Therefore, neither of Gordon or Beyers can describe or suggest channel objects including conditional logic. Accordingly, claim 36 and all claims depending therefrom are patentable over the cited art.

Conclusion

In view of the foregoing, it is respectfully submitted that the rejections of claims 28-30 and 32-47 are based on errors and that all of the pending claims should be allowed.

Respectfully submitted,

Dated: January 15, 2008

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